

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CONSTRUCTION LABORERS TRUST
FUNDS FOR SOUTHERN
CALIFORNIA ADMINISTRATIVE
COMPANY, a Delaware limited liability
company,

Plaintiff,

v.

CUT-RITE CONCRETE SAWING AND
BREAKING, INC., a California
corporation,

Defendant.

CASE NO.: 2:18-cv-7527 JFW(FFMx)

**JUDGMENT FOR DAMAGES
RELATING TO VIOLATION OF
THE COURT'S INTERLOCUTORY
ORDER FOR ACCOUNTING;AND
FINAL ORDER FOR ACCOUNTING**

OSC HEARING:

DATE: MAY 20, 2019

TIME: 1:30 P.M.

PLACE: COURTROOM 7A

350 W. 1st Street

Los Angeles, CA 90012

[Hon. John F. Walter]

The Court's Order to Show Cause re Contempt came on regularly for hearing on May 20, 2019 and the Court found Defendant, CUT-RITE CONCRETE SAWING AND BREAKING, INC., ("EMPLOYER") and its president, Shaun Gutierrez, ("GUTIERREZ") in civil contempt for their violation of the Court's Interlocutory Order for Accounting issued on November 30, 2018 [docket no. 19]. The Court

1 therefore awards Plaintiff damages as follows:

2 IT IS HEREBY ORDERED, ADJUDGED and DECREED that Judgment is
3 entered in favor of Plaintiff and against SHAUN GUTIERREZ and CUT-RITE
4 CONCRETE SAWING AND BREAKING, INC., a California corporation in the sum
5 of \$51,044.26, consisting of the following:

6	Fringe Benefits:	\$	27,682.80
7	Liquidated Damages:	\$	5,527.32
8	Interest to 5/30/19:	\$	1,875.14
9	Audit Fees:	\$	80.00
10	Attorney's Fees:	\$	15,755.00
11	Costs:	\$	124.00
	TOTAL:	\$	51,044.26

12 The money JUDGMENT entered is for damages covering the period from July
13 1, 2017 to April 30, 2019; however, Plaintiff was unable to complete the audit of
14 EMPLOYER'S records, and therefore if any additional amounts are discovered to be
15 owed by EMPLOYER and/or GUTIERREZ during this time period, the JUDGMENT
16 in this action shall not operate as a bar and/or have res judicata effect or any other
17 limitation of any legal right of the Plaintiff or TRUST FUNDS to determine and seek
18 collection of any amount due, or that comes due by EMPLOYER and/or
19 GUTIERREZ to any one or more of the TRUST FUNDS during the period from
20 February 13, 2017 to April 30, 2019.

21 IT IS FURTHER ORDERED that:

22 EMPLOYER, GUTIERREZ, and/or EMPLOYER'S accountants, managing
23 officers, agents, and/or assigns and all persons acting by, through, or in concert with
24 EMPLOYER and/or GUTIERREZ are to forthwith submit to an audit of
25 EMPLOYER'S payroll and business records and that they produce and allow TRUST
26 FUNDS to copy and have audit access to the payroll and business records for
27 EMPLOYER the following documents:

28 From February 13, 2017 to the date of the audit, the following documents

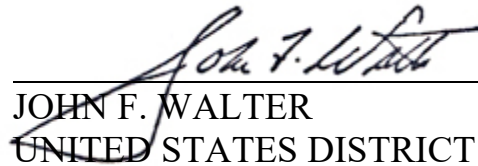
relating to EMPLOYER'S work on projects:

- (1) All payroll and employee documents including, but not limited to, EMPLOYER'S payroll journals, employees earning records, certified payrolls, payroll check books and stubs, canceled payroll checks, payroll time cards, state and federal payroll tax returns, labor distribution journals, any other documents reflecting the number of hours which EMPLOYER'S, employees worked, their names, social security numbers, addresses, job classifications and the projects on which the employees performed their work.
- (2) All EMPLOYER'S job files for each contract, project or job on which EMPLOYER worked, including all documents, agreements, and contracts between EMPLOYER, and any general contractor, subcontractor, builder and/or developer, field records, job records, notices, project logs, supervisor's diaries or notes, employees diaries, memorandum, releases and any other documents which related to the supervision of EMPLOYER'S employees and the projects on which they performed their work.
- (3) All EMPLOYER'S, documents related to cash receipts, including but not limited to, the cash receipts journals, accounts receivable journal, accounts receivable subsidiary ledgers and billing invoices for all contracts, projects or jobs on which EMPLOYER worked.
- (4) All EMPLOYER'S, bank statements for all checking, savings and investment accounts.
- (5) All EMPLOYER'S documents related to cash disbursements, including but not limited to, vendors' invoices, cash disbursement journal, accounts payable journals, check registers, cancelled checks and all other documents which indicate cash disbursements.
- (6) All Monthly Report Forms submitted by EMPLOYER to any

union trust fund.

- (7) Documents, records, or other writings pertaining to and including the checks/payments issued to any person, company and/or subcontractor relating to work performed on EMPLOYER'S construction projects, including but not limited to day laborers, or other non-union workers hired to work on EMPLOYER'S project.

Dated: June 7, 2019



JOHN F. WALTER
UNITED STATES DISTRICT JUDGE